

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Respondent*,

v.

PERRY TYRONE PARKER, *Petitioner*.

No. 1 CA-CR 15-0397 PRPC
FILED 4-20-2017

Petition for Review from the Superior Court in Coconino County
No. CR2004-1241
The Honorable Mark R. Moran, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Coconino County Attorney's Office, Flagstaff
By William P. Ring
Counsel for Respondent

Perry Tyrone Parker, Tucson
Petitioner

MEMORANDUM DECISION

Presiding Judge Samuel A. Thumma delivered the decision of the Court, in
which Judge Lawrence F. Winthrop and Judge James P. Beene joined.

STATE v. PARKER
Decision of the Court

T H U M M A, Judge:

¶1 Petitioner Perry Tyrone Parker seeks review of the superior court's order denying his successive petition for post-conviction relief, filed pursuant to Arizona Rule of Criminal Procedure 32.1 (2017).¹ Absent an abuse of discretion or error of law, this court will not disturb a superior court's ruling on a petition for post-conviction relief. *State v. Gutierrez*, 229 Ariz. 573, 577 ¶ 19 (2012). Finding no such error, this court grants review but denies relief.

¶2 The superior court sentenced Parker to a term of imprisonment for natural life after a jury found him guilty of first degree murder, with sentences for terms of years for two counts of aggravated assault. This court affirmed Parker's convictions and sentences on direct appeal. *State v. Parker*, 1 CA-CR 06-0589 (Ariz. App. May 22, 2007) (mem. dec.). This court then vacated Parker's aggravated assault convictions and resulting sentences in his second post-conviction relief proceeding and remanded for further proceedings, but denied relief regarding his murder conviction and sentence. *State v. Parker*, 1 CA-CR 14-0213 PRPC, 2016 WL 5462036 (Ariz. App. Sep. 29, 2016) (mem. dec.).

¶3 In his petition for review, Parker argues he has newly discovered evidence that medication he was taking before and during trial made him incompetent to stand trial. Parker, however, has failed to present a colorable claim that he recently discovered the evidence or that the medication rendered him incompetent. The medical records attached to his petition for review are dated 2005 and Parker does not claim he did not possess or otherwise have knowledge of or access to these records or the information within them at that time. Further, Parker does not claim he was unaware he was taking the medication, nor does he explain how the medications rendered him legally incompetent; he merely makes the allegation. Finally, Parker offers no reason for why he could not have raised this issue in one of his prior post-conviction relief proceedings. Any claim a defendant raised or could have raised in an earlier post-conviction relief proceeding is precluded. Ariz. R. Crim. P. 32.2(a).

¶4 Parker also argues he has newly discovered evidence that the State failed to disclose the father of a trial witness worked at the Coconino County jail. Parker, however, offers no explanation how this information

¹ Absent material revisions after the relevant dates, statutes and rules cited refer to the current version unless otherwise indicated.

STATE v. PARKER
Decision of the Court

was relevant to his case nor how the failure to disclose this information prejudiced him. Accordingly, this argument provides no basis for relief.

¶5 For these reasons, this court grants review but denies relief.



AMY M. WOOD • Clerk of the Court
FILED: AA